

REMARKS

Applicant has amended the claims to state that the manufacturing facility is a continuous process manufacturing facility which is defined on page 8 and shows examples of process manufacturing to be steel, the production of other metals, petroleum, energy and papermaking.

The Examiner has rejected the claims as being anticipated by Hogge. Hogge relates to an apparatus and method which generates a plurality of theoretical plans and a constraint based model for receiving one of the theoretic plans and applying at least one constraint thereto. The apparatus and method searches for a feasible production plan among the plurality of theoretic plan, where the feasible plan is the plan which does not violate the applied constraint and has the at least computed cost function [Abstract].

As stated in the Background of the Invention, the patent relates to production planning which is the process of choosing work to be started in a manufacturing facility during such future time period such that permanence is maximized. In order to configure a production plan which yields the best performance, the capacity or the amount of work the facility can handle, must be modeled in some fashion, since starting work above the capacity of the facility compromises performance and brings forth no benefits.

The apparatus of Hogge comprises means for computing, e.g., computer, the capacity of the factory in order to produce the determined quantities and types of

products, means for computing the maximum factory capacity, and means for comparing the computed production capacity with the maximum factory capacity.

Nowhere does Hogge teach the method and apparatus to be used on a continuous process manufacturing facility. In fact, the examples given by Hogge relate to semi conductor wafer fabrication facility which makes three types of devices and has only four machines which will be used. In this example, the modification proposed present a new mix of product types and/or quantities.

Process manufacturing facilities are unique in that the machines continue to run the same type of product whether it be paper for a paper manufacturing facility, steel for a steel manufacturing facility, the only changes are based on the particular specifications of the steel and/or paper. The products and system described in Hogge relate to machines that make totally different types of product where the machines have to be stopped and changed to make a different product. Therefore the amended claims of the present invention are allowable over Hogge.

Production planning as used in Hogge is related to a non-continuous, non-commodity enterprise business like printing, widget making and box making. In these businesses, and as outlined in the patent description it is vital to order specific parts to be assembled into the final product. The machines must be scheduled to take these sub-assemblies and produce to specific customer requirements. In continuous businesses that are described in the present invention, the raw material is a commodity, such as wood chips, scrap steel, waste paper, iron ore or polyethylene. The finished

product is also a somewhat less different production such as sheet steel, newsprint, writing paper or corrugated containers.

Applicant believes that the application is now in condition for allowance.

EXPRESS MAIL® Mailing Label No. EV 798297908 US

Date of Deposit: May 25, 2006

I hereby certify that this paper (and any document(s) attached herewith is being deposited with the United States Postal Service "Express Mail


Post Office to Addressee" service under 37 C.F.R. 1.10 on the

date indicated above and is addressed to the Commissioner

for Patents, P.O. Box 1450, Alexandria, VA 22313 on

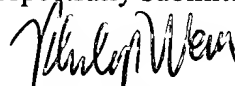
May 25, 2006

Signature:



Name: Debbie Broderick

Respectfully submitted,



Philip M. Weiss

Reg. No. 34,751

Attorney for Applicant

Weiss & Weiss

300 Old Country Rd., Ste. 251

Mineola, NY 11501

(516) 739-1500